

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

NATIONSTAR MORTGAGE, LLC,

Plaintiff(s),

v.

MAPLEWOOD SPRINGS HOMEOWNERS
ASSOCIATION, et al.,

Defendant(s).

Case No. 2:15-CV-1683 JCM (CWH)

ORDER

Presently before the court is defendant Maplewood Springs Homeowners Association's ("Maplewood") motion to dismiss. (ECF No. 10).

Plaintiff Nationstar Mortgage, LLC's ("Nationstar") complaint seeks to invalidate Maplewood's foreclosure sale of a property, which purportedly extinguished Nationstar's beneficial interest in a \$297,800 mortgage loan. Nationstar's complaint alleges, amongst other things, that Nevada Revised Statute 116.3116 is unconstitutional. (ECF No. 1 at 9).

A party who files a pleading, written motion, or other paper drawing into question the constitutionality of a state statute must promptly "file a notice of constitutional question stating the question and identifying the paper that raises it, if . . . the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity" FED. R. CIV. P. 5.1(a)(1)(B). Additionally, FRCP 5.1 requires the court to "certify to the appropriate attorney general that a statute has been questioned" under 28 U.S.C. § 2403. FED. R. CIV. P. 5.1(b). Section 2403 states that the court "shall permit the [s]tate to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality." 28 U.S.C. § 2403(b).

1 In light of the foregoing rule and statute, the court will deny plaintiff and defendants'
2 motions without prejudice to allow: (1) Nationstar to file a notice of constitutional question, (2)
3 the court to comply, and (3) the attorney general to intervene. The parties may renew their motions
4 after the attorney general has been afforded time to respond.

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Maplewood
6 Springs Homeowners Association's motion to dismiss (ECF No. 10) be, and the same hereby is,
7 DENIED without prejudice.

8 IT IS FURTHER ORDERED that cross claimant and defendant SFR Investments Pool 1,
9 LLC's motion for summary judgment (ECF No. 38) be, and the same hereby is, DENIED without
10 prejudice.

11 IT IS FURTHER ORDERED that defendant Maplewood Springs Homeowners
12 Association's motion for summary judgment (ECF No. 39) be, and the same hereby is, DENIED
13 without prejudice.

14 IT IS FURTHER ORDERED that cross defendant Deutsche Bank National Trust Company
15 and plaintiff Nationstar Mortgage, LLC's motion for summary judgment (ECF No. 41) be, and the
16 same hereby is, DENIED without prejudice.

17 IT IS FURTHER ORDERED that the parties' second amended stipulation for extension of
18 time (ECF No. 46) be, and the same hereby is, DENIED as moot.

19 IT IS FURTHER ORDERED that Nationstar Mortgage, LLC shall promptly file a notice
20 of constitutional question, pursuant to Federal Rule of Civil Procedure 5.1(a)(1)(B).

21 IT IS FURTHER ORDERED that this court certifies to the Nevada attorney general that it
22 may rule on the constitutionality of the state statute at issue in this case, NRS 116.3116. The
23 attorney general shall have thirty (30) days within which to intervene on behalf of the state of
24 Nevada for presentation of argument on the question of the constitutionality of the statute.

25 ...

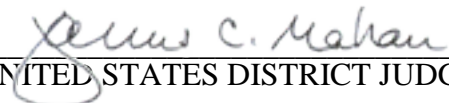
26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that the clerk of court shall send a copy of this order by
2 certified mail to the Nevada attorney general.

3 DATED July 21, 2016.

4 
5 UNITED STATES DISTRICT JUDGE
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28